

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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|------------------------------|---|------------------------------|
| ROBIN NIXON, |) | |
| Plaintiff |) | |
| |) | |
| v. |) | CIVIL ACTION NO. 05-101 ERIE |
| |) | |
| NORFOLK SOUTHERN CORPORATION |) | |
| and NORFOLK SOUTHERN RAILWAY |) | |
| COMPANY, INC., |) | |
| Defendants |) | |

**THIRD JOINT MOTION FOR
AMENDMENT OF CASE MANAGEMENT ORDER**

Plaintiff ROBIN NIXON, by his attorneys, Segel & Solymosi, and defendants NORFOLK SOUTHERN CORPORATION and NORFOLK SOUTHERN RAILWAY COMPANY, INC. (more properly known as "Norfolk Southern Railway Company"), by their attorneys, MacDonald, Illig, Jones & Britton LLP, file this Third Joint Motion for Amendment of Case Management Order and state the following in support thereof:

1. This civil action involves a common law negligence claim by plaintiff Robin Nixon (hereinafter "Nixon") against defendants Norfolk Southern Corporation and Norfolk Southern Railway Company, Inc. for personal injuries arising out of an accident that occurred on or about April 27, 1997, in the City of Erie, Pennsylvania when Nixon, who then was age 12, alleges that while riding a bicycle, he grabbed onto a slowly-moving eastbound train, lost control and fell under the train. (Complaint).

2. On January 25, 2005, this Honorable Court issued a Second Amended Case Management Order that, inter alia, established a pretrial schedule by which all discovery (other than expert witnesses) was to be completed on or before April 19, 2006; plaintiff's expert disclosures were to be served on or before June 1, 2006; defendants' expert disclosures were to be served on or before June 29, 2006; expert depositions were to be completed on or before July 20, 2006; dispositive motions, if any, were to be filed on or before August 15, 2006; responses in opposition to dispositive motions were to be filed on or before September 12, 2006; any replies in support of dispositive motions were to be filed on or before September 26, 2006; a Joint Concise Statement of Material Facts was to be filed on or before October 10, 2006; and, if no dispositive motions are filed, plaintiff's pretrial narrative statement was to be filed on or before August 29, 2006, and defendants' pretrial narrative statement was to be filed on or before September 20, 2006. (Second Amended Case Management Order dated 1/25/06).

3. The parties have been engaging in pretrial discovery in this case through interrogatories, requests for production of documents and several depositions to date, but need additional time within which to complete their remaining discovery, by depositions and otherwise, in order to properly prepare their respective cases for trial, given scheduling difficulties with respect to requested depositions.

4. There have been only two prior requests for an extension of time to complete pretrial discovery, and this civil action has not yet been scheduled for trial.

5. In view of the additional discovery required by both parties, plaintiff Nixon and defendants Norfolk Southern Corporation and Norfolk Southern Railway Company, Inc. jointly seek a final extension of time until August 11, 2006, within which to complete discovery (other

than expert witnesses), and the issuance of a Third Amended Case Management Order revising other dates in the pretrial schedule consistent therewith.

6.

WHEREFORE, plaintiff Robin Nixon and defendants Norfolk Southern Corporation and Norfolk Southern Railway Company, Inc. respectfully request this Honorable Court to extend the time for completion of discovery (other than expert witnesses) until July 21, 2006, and to issue a Third Amended Case Management Order that revises other dates in the pretrial schedule consistent therewith.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2006, the Third Joint Motion for Amendment of Case Management Order was filed electronically. A Notice of Electronic Case Filing will be sent to all parties by operation of the Court's Electronic Case Filing system and constitutes service of this filing under Rule 5(b)(2)(D) of the Federal Rules of Civil Procedure. Parties may access this filing through the Court's ECF system.

s / Roger H. Taft

Roger H. Taft, Esq.